UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,906	03/19/2004	Koichi Hata	2004_0398	6714

513 7590 09/06/2005		EXAMINER
WENDEROTH, LIND & PONACK, L.L.P.		KERVEROS, JAMES C
2033 K STREET N. W.		

ART UNIT	PAPER NUMBER
2133	

SUITE 800
WASHINGTON, DC 20006-1021

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>*26 January 2005*</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-28* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13,17,21 and 25* is/are rejected.

7)☒ Claim(s) *14-16,18-20,22-24 and 26-28* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☒ All b)☐ Some * c)☐ None of:

        1.☒ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application)
since a specific reference was included in the first sentence of the specification or in an Application Data Sheet.
37 CFR 1.78.

    a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific
reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *3,9, 12/04* .

4)☐ Interview Summary (PTO-413) Paper No(s). _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: .

DETAILED ACTION

This is a Non-Final Office Action in response to PRELIMINARY AMENDMENT

filed 1/26/2005. Claims 13-28 are pending and presently under examination.

This is a Divisional Application of U.S. Application No. 09/948,765, filed

September 10, 2001.

The PETITION TO MAKE SPECIAL filed 3/3/2005 has been GRANTED.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35

U.S.C. 119(a)-(d), for FOREIGN APPLICATIONS JP 2000-274615 filed 09/11/2000,

and JP 2000-367514 filed 12/01/2000. The certified copy has been filed in parent

Application No. 09/948,765, filed on September 10, 2001.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created
doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the
unjustified or improper timewise extension of the "right to exclude" granted by a patent
and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11
F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225
USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*,
418 F.2d 528, 163 USPQ 644 (CCPA 1969).
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be
used to overcome an actual or provisional rejection based on a nonstatutory double
patenting ground provided the conflicting application or patent is shown to be commonly
owned with this application. See 37 CFR 1.130(b).
Effective January 1, 1994, a registered attorney or agent of record may sign a
terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with
37 CFR 3.73(b).

Claims 13, 17, 21 and 25 are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 7

and 10 of copending Application No. 09/948,765. Although the conflicting claims are

not identical, they are not patentably distinct from each other because the claimed

invention of the instant Application is broader in scope, which encompasses the claimed

limitations of the copending Application No. 09/948,765.

Claim 1 of the copending Application contains every element of claim 13 of the

instant application, and in addition "**wherein when the update information is**

transmitted from the transmitting side, the reference information manager

updates the reference information stored in the reference information manager

based on the transmitted update information."

Claim 4 of the copending Application contains every element of claim 17 of the

instant application, and in addition **"transmitting, to the transmitting side, an update**

request for requesting update information for updating the reference information,

when determining, based on the stored relationship between the number of error

packets and the number of error free packets that the stored reference

information should be updated."

Claim 7 of the copending Application contains every element of claim 21 of the

instant application, and in addition "**transmitting, to the transmitting side, an update**

request for requesting update information for updating the reference information,

when determining, based on the stored relationship between the number of error

packets and the number of error free packets that the stored reference

information should be updated."

Claim 9 of the copending Application contains every element of claim 25 of the instant application, and in addition "**transmitting, to the transmitting side, an update request for requesting update information for updating the reference information, when determining, based on the stored relationship between the number of error packets and the number of error free packets that the stored reference information**."

Claims 1, 4, 7 and 10 of copending Application No. 09/948,765 contains every element of claims 13, 17, 21 and 25 of the instant application and as such anticipates claims 13, 17, 21 and 25 of the instant application.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus)." ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed
> or described as set forth in section 102 of this title, if the differences between the
> subject matter sought to be patented and the prior art are such that the subject
> matter as a whole would have been obvious at the time the invention was made
> to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was
> made.

Claims 13, 17, 21 and 25 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Applicant's admitted prior art (Figure 9) in view of Strawczynski et al.

(US 6148422).

Regarding Claims 13, 17, 21 and 25, Applicant's admitted prior art substantially

discloses a claimed header decompression apparatus and method (1007, Figure 9), for

decompressing a compressed header of a packet for transmission according to

reference information. The apparatus and method comprising a packet receiver (1004)

for receiving the packet from the transmitting side, a reference information manager

(1005) for storing and managing the reference information, a header decompressor

(1003) provided with the received packet, for carrying out the header decompression

according to the reference information, an error detector (1002) for detecting an error in

the packet and an update request unit 1006 for receiving a notification that an error is

detected by the error detector (1002), and then transmitting an update request to the

transmitting side, see pages 5 and 6, description of Figure 9.

The Applicant's admitted prior art does not explicitly disclose, "a counter/storage for counting a number of packets having an error detected by the error detector from among the last W packets decompressed by the header decompressor". However, Applicant's admitted prior art includes an error detector (1002) and an update request unit (1006), which sends an update request to the transmitting side based on the error generated in the error detector (1002).

Furthermore, in an analogous art, Strawczynski discloses error control and correction of data packets in a telecommunication network comprising a counter 452 and a memory 458, for determining the number of consecutive packets in error and for storing the error data, Figure 4B. The counter increments by 1 (step 546), if the data packet is in error, when the flag indication is a "1", corresponding to a value X. The system determines whether the number of consecutive frames in error is smaller or greater than six (step 548) so as to take the best action to reconstruct the data packet. If the flag indication is a "0", corresponding to a value Y, indicating that the packet is error-free, then the counter will be reset to 0 (step 550), Figure 5C. Then based on the error counter, the following situations are: a) to replace the present data packet, when X>Y, b) to set frame energy to "0" in order to mute the signal, and c) to go directly to step 560 without modifying the data packet.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate an error counter as taught by Strawczynski, in the apparatus of Applicant's admitted prior art, since Strawczynski provides better error control and correction of data packets by optimizing the use of the reconstructed data

packets, due to the application of error detection and correction techniques on the data packets transported over the network. A person having ordinary skill in the art would have been motivated to use error counting techniques, since Strawczynski suggests, that one method to obtain better voice quality is to use error detection and correction techniques on the data packets transported over the network.

Allowable Subject Matter

Claims 14-16, 18-20, 22-24 and 26-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior arts of record taken alone or in combination fail to teach, anticipate, suggest or render obvious the claimed invention of "W packets decompressed by the header decompressor, wherein W is a predetermined value stored in the counter/storage, and the counter/storage counts the number of packets R having an error detected by the error detector from among the last W packets decompressed by the header decompressor, wherein W is an integer and R is an integer", as recited in Claims 14, 18, 22 and 26.

Consequently, Claims 14, 18, 22 and 26 are allowable over the prior arts of record. Claims 15-16, 19-20, 23-24 and 27-28 are directly or indirectly depended upon claims 14, 18, 22 and 26 and therefore are also allowable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Jonsson (U.S. Patent No. 6,609,224) discloses a method for replacing a transport layer error detection code in a header compression algorithm, the method comprising the steps of:

calculating one error detection code covering both a transport layer header and a transport layer payload;

compressing the transport layer header in accordance with the header compression algorithm;

including the error detection code with the compressed transport layer header;

and transmitting the compressed transport layer header.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES C. KERVEROS whose telephone number is (571) 272-3824. The examiner can normally be reached on 9:00 AM TO 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert Decady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

JAMES C KERVEROS
Examiner
Art Unit 2133

Randolph Building, 401 Dulany Street,
Alexandria, VA 22314
Tel: (571) 272-3824, Fax: (571) 273-3824
james.kerveros@uspto.gov   By: _____.

Date: 31 August 2005
Office Action: Non-Final Rejection